

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2238

Introduced by Assembly Member Smyth

February 20, 2008

An act to amend Section ~~16001.9~~ 7002 of the Family Code, and to add Section 16015 to of the Welfare and Institutions Code, relating to foster ~~youths~~ youth.

LEGISLATIVE COUNSEL'S DIGEST

AB 2238, as amended, Smyth. Dependent children: out-of-home placements.

Existing law establishes the rights of children in foster care. *Existing law separately provides that a person under the age of 18 years is an emancipated minor, and required to be treated as an adult under designated circumstances, if the person is on active duty with the Armed Forces of the United States.*

This bill would ~~include within the scope of those rights the right of~~ authorize a child in foster care who is 17 years of age or older who resides in the state, to enter into a program for delayed entry into military service or to immediately enlist in active military service, with the consent of his or her foster parent, *relative caregiver*, or social worker. *The bill would provide that a child in foster care who enlists in the military under the bill would not be deemed an emancipated minor for purposes of receiving any foster care benefit to which he or she would otherwise be entitled.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 7002 of the Family Code is amended to*
2 *read:*

3 7002. A person under the age of 18 years is an emancipated
4 minor if any of the following conditions is satisfied:

5 (a) The person has entered into a valid marriage, whether or not
6 the marriage has been dissolved.

7 (b) The person is on active duty with the ~~armed forces~~ *Armed*
8 *Forces* of the United States, *except as provided in Section 16015*
9 *of the Welfare and Institutions Code.*

10 (c) The person has received a declaration of emancipation
11 pursuant to Section 7122.

12 *SEC. 2. Section 16015 is added to the Welfare and Institutions*
13 *Code, to read:*

14 16015. (a) *Notwithstanding any other provision of law, a child*
15 *in foster care, at 17 years of age or older, may enter into a program*
16 *for delayed entry into active service in military service or to*
17 *immediately enlist into active military service, with the consent or*
18 *his or her foster parent, relative caregiver, or social worker.*

19 (b) *A child in foster care who enlists in the military under this*
20 *section shall not be deemed an emancipated minor for purposes*
21 *of receiving any foster care benefit to which he or she would*
22 *otherwise be entitled.*

23 ~~SECTION 1. Section 16001.9 of the Welfare and Institutions~~
24 ~~Code is amended to read:~~

25 ~~16001.9. (a) It is the policy of the state that all children in~~
26 ~~foster care shall have each of the following rights:~~

27 ~~(1) To live in a safe, healthy, and comfortable home where he~~
28 ~~or she is treated with respect.~~

29 ~~(2) To be free from physical, sexual, emotional, or other abuse,~~
30 ~~or corporal punishment.~~

31 ~~(3) To receive adequate and healthy food, adequate clothing,~~
32 ~~and, for youth in group homes, an allowance.~~

33 ~~(4) To receive medical, dental, vision, and mental health~~
34 ~~services.~~

35 ~~(5) To be free of the administration of medication or chemical~~
36 ~~substances, unless authorized by a physician.~~

37 ~~(6) To contact family members, unless prohibited by court order,~~
38 ~~and social workers, attorneys, foster youth advocates and~~

1 ~~supporters, Court Appointed Special Advocates (CASA), and~~
2 ~~probation officers.~~

3 ~~(7) To visit and contact brothers and sisters, unless prohibited~~
4 ~~by court order.~~

5 ~~(8) To contact the Community Care Licensing Division of the~~
6 ~~State Department of Social Services or the State Foster Care~~
7 ~~Ombudsperson regarding violations of rights, to speak to~~
8 ~~representatives of these offices confidentially, and to be free from~~
9 ~~threats or punishment for making complaints.~~

10 ~~(9) To make and receive confidential telephone calls and send~~
11 ~~and receive unopened mail, unless prohibited by court order.~~

12 ~~(10) To attend religious services and activities of his or her~~
13 ~~choice.~~

14 ~~(11) To maintain an emancipation bank account and manage~~
15 ~~personal income, consistent with the child's age and developmental~~
16 ~~level, unless prohibited by the case plan.~~

17 ~~(12) To not be locked in any room, building, or facility premises,~~
18 ~~unless placed in a community treatment facility.~~

19 ~~(13) To attend school and participate in extracurricular, cultural,~~
20 ~~and personal enrichment activities, consistent with the child's age~~
21 ~~and developmental level.~~

22 ~~(14) To work and develop job skills at an age-appropriate level,~~
23 ~~consistent with state law.~~

24 ~~(15) To have social contacts with people outside of the foster~~
25 ~~care system, such as teachers, church members, mentors, and~~
26 ~~friends.~~

27 ~~(16) To attend Independent Living Program classes and activities~~
28 ~~if he or she meets age requirements.~~

29 ~~(17) To attend court hearings and speak to the judge.~~

30 ~~(18) To have storage space for private use.~~

31 ~~(19) To be involved in the development of his or her own case~~
32 ~~plan and plan for permanent placement.~~

33 ~~(20) To review his or her own case plan and plan for permanent~~
34 ~~placement if he or she is 12 years of age or older and in a~~
35 ~~permanent placement, and to receive information about his or her~~
36 ~~out-of-home placement and case plan, including being told of~~
37 ~~changes to the plan.~~

38 ~~(21) To be free from unreasonable searches of personal~~
39 ~~belongings.~~

1 ~~(22) To confidentiality of all juvenile court records consistent~~
2 ~~with existing law.~~

3 ~~(23) To have fair and equal access to all available services,~~
4 ~~placement, care, treatment, and benefits, and to not be subjected~~
5 ~~to discrimination or harassment on the basis of actual or perceived~~
6 ~~race, ethnic group identification, ancestry, national origin, color,~~
7 ~~religion, sex, sexual orientation, gender identity, mental or physical~~
8 ~~disability, or HIV status.~~

9 ~~(24) At 16 years of age or older, to have access to existing~~
10 ~~information regarding the educational options available, including,~~
11 ~~but not limited to, the coursework necessary for vocational and~~
12 ~~postsecondary educational programs, and information regarding~~
13 ~~financial aid for postsecondary education.~~

14 ~~(25) At 17 years of age or older, with the consent of his or her~~
15 ~~foster parent or social worker, to enter into a program for delayed~~
16 ~~entry into active service in military service or to immediately enlist~~
17 ~~into active military service.~~

18 ~~(b) Nothing in this section shall be interpreted to require a foster~~
19 ~~care provider to take any action that would impair the health and~~
20 ~~safety of children in out-of-home placement.~~

21 ~~(c) The State Department of Social Services and each county~~
22 ~~welfare department are encouraged to work with the Student Aid~~
23 ~~Commission, the University of California, the California State~~
24 ~~University, and the California Community Colleges to receive~~
25 ~~information pursuant to paragraph (23) of subdivision (a).~~